

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	RM-8658
Section 68.4 of the Commission's Rules)	
Hearing Aid Compatible Telephones)	

Request to Reopen the Petition for Rule Making

Introduction

Self Help for Hard of Hearing People (SHHH) submits these comments in response to the Wireless Action Coalition's (WAC) request that the Federal Communications Commission (FCC) reopen the Petition for Rule Making in the Matter of Section 68.4 (a) of the FCC's Rules, Hearing Aid Compatible Telephones.

SHHH was a member of the HEAR-IT NOW Coalition that filed the original Petition in 1995 and is also a member of the WAC that requested the reopening on October 7, 2000. SHHH is a national educational organization representing people with hearing loss. Its members are people of all ages and degrees of hearing loss. Through a national office, eight state associations and a network of 250 chapters and groups across the country, SHHH members consistently work towards increasing communication access to

enable people with hearing loss to continue to function in mainstream society. Access to telecommunications is integral to being able to actively participate in today's world.

SHHH is heavily involved in this issue because it is of vital importance to our constituency. Over 80% of SHHH members are hearing aid users and an increasing number are cochlear implantees. Over 60% prefer to use their hearing aids on the telecoil setting when speaking on the telephone. The individuals who use hearing aids, their family members, and their employers are faced with significant barriers when trying to find a digital wireless telephone that they can use without interference and with strong enough volume boost.

It is estimated that one in ten of the population has some degree of hearing loss. This number is on the increase as a result of the noise that we are exposed to and the aging of our society. The incidence is even higher for people over 65 years of age, of whom one in three has some degree of hearing loss. In the United States today approximately 6 million people use hearing aids and 20,000 people have cochlear implants.

Background

The telephone is integral to our daily lives and to not have access to it is unimaginable for most people. Congress recognized this when it passed the Hearing Aid Compatibility Act (HAC Act) of 1988. At that time Congress stated that “to the fullest extent made possible by technology and medical science, hard of hearing persons should have equal access to the national telecommunications network. “ (Pub.L. 100-394, Section 2 (1988).

According to the HAC Act, wireline phones manufactured after 1989 have to be hearing aid compatible and those manufactured after January 2000 also have to incorporate volume control. This means that many people with hearing loss, with or without hearing aids, can use most wireline phones manufactured after the effective date. People with telecoil equipped hearing aids can be assured that if they purchase a phone they will be able to inductively couple it to their aid. It also means that they will be able to use phones in other people’s homes, hotels, hospitals, workplaces, nursing homes and other places covered by the law.

Without exception, access to telecommunications for people with hearing loss has come about through legislation. Hearing aid compatibility and

volume control in voice phones, decoding capability in TVs, and telecommunications relay services are just a few examples where legislation has enabled people with hearing loss to use telecommunications. Without this legislation these changes would not have occurred. But for the HAC Act, people with hearing loss would not be able to use regular wireline phones. Manufacturers would not, of their own volition, incorporate Part 68 components into their telephones. All came about as a consequence of federal mandates. Indeed, FCC Commissioner Harold Furchtgott-Roth, despite his general support of deregulation, conceded during the discussions on the development of regulations for Section 255, that “This particular area of regulation may well be a rare instance where the involvement of the federal government introduces efficiencies unlikely to develop in the market.” If wireless manufacturers are exempt from making their handsets hearing aid compatible under the HAC Act, full and equal access will never be achieved to PCS devices by people who use hearing aids.

Hearing aid wearers were provided access to the telephone system because Congress recognized the vital nature of the phone system and the importance of everyone, including people with hearing loss, being able to access it. The access did not actually happen until almost 50 years after passage of the

Communications Act of 1934. Now people with hearing loss are destined to play catch up again with the proliferation of personal communication devices (PCS) that are not currently accessible to them. Consumers are not prepared to wait 50 years this time around. Technology changes far more rapidly today and people with hearing loss are already disadvantaged by not having access to PCS.

The focus on information technology in the 1980's gave rise to the focus on personal communications technology in the 1990's. PCS devices offer a range of equipment that is capable of voice, data, and video transmission and reception. These combine a personal organizer, scheduler, spreadsheet and word processor, a high-speed data terminal with almost instant access to any database in the world, a fax machine and a standard telephone into a single compact and portable unit. These portable devices have increased mobility in society, and extended the freedom of choice and the capabilities of the individual citizen. That is for those who can use them and for whom they are accessible. For most people who use hearing aids they are still out of reach.

According to CTIA over 106 million people in the US (November 29, 2000) are digital telephone subscribers. That is more than 40% of the population.

Two major concerns for our constituency are detailed in the FCC's own report adopted August 3, 2000. The "Fifth Report" or the "Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services," speaks to the continued rise of digital services and the growing trend toward abandoning land-lines for digital services. "The combined effect - the doubling of digital subscribers and the first report of a decline in analog subscribers - was that at the end of 1999, digital subscribers made up 51% of the industry total." (PP13, 14, "Fifth Report," before the FCC, adopted August 3 and released August 18, 2000.)

The same report also details the "Wireless/Wireline Competition" where service providers are marketing digital PCS devices to replace traditional wireline services at a very competitive price. "For example, in early 1999, Chase Telecommunications Holdings Inc. began offering a mobile telephone service in Chattanooga, Tennessee, designed to compete with wireline local telephone service." (p. 14.) This is the nightmare that hearing aid and cochlear implant users face unless intervention occurs quickly. They are forced to rely on obsolete technology that is being phased out while this petition is pending.

Congress Directed the FCC to Review Exemptions to the HAC Act

Virtually all telephones were required to be hearing aid compatible under the HAC Act, including new telephones and telephones associated with a new technology or service. Telephones used with public mobile services and private radio services were exempt. However, Congress directed the FCC to review periodically these exemptions. 47 U.S.C.610(b)(2)(C). In response to this directive in 1989, the FCC announced that it would review these exemptions at least every five years. Not a single review has been undertaken since the initial promulgation of the HAC Act. In fact, even when the HEAR-IT NOW PETITION requested revoking the exemption, the FCC declined to carry out a review. Nor was the petition put out for public comment at that time.

The original HEAR-IT NOW Petition was submitted to try to find a solution, early in the development of PCS devices, before they were broadly used. It was well known in Europe, back in the early 90s, that PCS devices caused interference with hearing aids and cochlear implants. U.S. consumers were alerted by their counterparts in Europe that PCS devices were not usable by or accessible to hearing aid wearers and to avoid the mistake that had been made there by rolling out the technology before solving the interference

problem. However, the FCC refused to stop the technology from being released. The approach was to roll it out and then find a solution after. This was short-sighted, as retrofitting is always more costly than building in access from early on in the design stage. Instead, then-FCC Chairman Reed Hundt, directed the wireless and hearing aid industries, professional and consumer groups to work out a solution to make PCS devices accessible to people with hearing loss. This resulted in a high level Summit held in Washington, D.C. in January 1996. Since that time, there has been activity on all fronts. Some handset manufacturers have been researching redesign of antennas, handset circuitry, and shielding mechanisms. Hearing aid manufacturers have been designing hearing aids with increased immunity to interference and consumers have been involved in prototype testing.

A standard setting process was initiated and placed on a fast track. ANSI C63.19 has been working on a standard to measure hearing aid immunity and interference of digital wireless telephones. The standard is still awaiting approval. Research, funded by CTIA, was conducted at the Center for the Study of Wireless Electromagnetic Compatibility at the University of Oklahoma. The research showed that all three digital phone technologies tested caused interference with many hearing aids.

In the midst of these collaborative post-Summit activities, the Telecommunications Act of 1996 was passed. Section 255 of the Act addressed the need for access to telecommunications by people with disabilities. Companies have, on the whole, taken Section 255 seriously, providing staff training, and conducting research into making telecommunications products and services accessible. However, it is not an easy task and they do what is readily achievable to do. Unfortunately, the problem of interference between hearing aids and digital wireless phones is a complex one and the existing standard is too weak to produce real results.

Compared to the HAC Act that sets a manufacturing requirement, Section 255 leaves it up to the manufacturers to do whatever is cheap and easy. Handset manufacturers have focused on marketing attachments that can be used with telecoil-equipped hearing aids. These work well for some people but add an additional \$100 onto the cost of the telephone. In addition, consumers do not like having to deal with the wires and battery life is too short, particularly for use in the workplace.

The bottom line is that hearing aid users are being denied access to an increasingly vital technology. PCS devices are no longer a novelty or a high-end product. Nor are they primarily used for emergency situations. They have become commonplace and consumers are relying on them more and more. Increasingly, alternative options, such as analog service, are harder to find and more expensive than digital service.

SHHH believes that the collaborative approach between the wireless and hearing aid industries, hearing health professionals and consumers that has been going on for the past four years, though valuable in many ways, has not produced the desired results. For this reason we support the opening up of the petition to revoke the exemption for wireless telephones from the HAC Act.

Respectfully submitted,

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